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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,679	03/13/2001	Paul E. Jacobs	000283	3660
23696	7590	05/05/2005	EXAMINER	
Qualcomm Incorporated Patents Department 5775 Morehouse Drive San Diego, CA 92121-1714			SON, LINH L D	
			ART UNIT	PAPER NUMBER
			2135	

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/805,679

Applicant(s)

JACOBS, PAUL E.

Examiner

Linh LD Son

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by August et al, US Patent No. 6389055B1, hereinafter “August”

3. As per claims 1, 6 and 9, August discloses “a portable communication device comprising: a microphone structured for receiving sound waves (Col 6 lines 15-25), “the sound waves being representative of (i) an audio signal and (ii) hidden data embedded in the audio signal (Col 6 lines 54-67), the microphone converting the received sound waves into an electrical output signal; a processor electrically coupled to the microphone and configured to receive the electrical output signal in order to extract the hidden data and provide information represented by the hidden data as an output thereof (Col 6 lines 15-17, lines 54-67); “a user interface electrically coupled to the processor and configured to (i) receive a first input from the user and (ii) activate the processor to selectively initiate extraction of the hidden data in accordance with the first user input (Col 6 lines 54-67, Col 7 lines 25-34, lines 55-67, and Col 8 lines 44-60), the processor

producing as an output the information represented by the hidden data (Col 8 lines 44-60); and a user presentation mechanism configured to present the information represented by the hidden data to the user (Col 6 lines 40-67).

4. As per claim 2, August discloses the portable communication device according to claim 1, wherein the user interface is further configured to (i) receive a second input from the user and (ii) activate the processor to output data representative of the second input, the second input being indicative of user preferred portions of the information representative of the hidden data presented to the user (Col 7 lines 34-43, and Col 6 lines 43-54).

5. As per claim 3, August discloses “the portable communication device according to claim 2, further comprising an output mechanism electrically coupled to the processor and configured to receive the output therefrom and transmitting a signal corresponding to the received output” in (Col 8 line 44 to Col 9 line 4).

As per claim 4, August discloses the portable communication device according to claim 3, wherein the transmitted signal activates computer network functions (Col 9 line 60 to Col 10 line 3).

6. As per claim 5, August discloses the portable communication device according to claim 3, further comprising an embedding device for (i) receiving the output from the processor and (ii)

embedding the output with identification information, wherein the signal corresponding to the received output includes the embedded identification information (Col 6 lines 29-35).

7. As per claim 7, August discloses “a base station configured to (i) receive and process information broadcast from a portable communication device, (ii) extract hidden data from the processed broadcast information, the extracted hidden data including identifier information, the extracted hidden data including the linking information, and (iii) establish a communication link to a destination represented by the linking information” in (Col 7 lines 55-67).

8. As per claim 8, August discloses “a communication system for processing a broadcast audio signal including hidden data, the communication system comprising: a portable communication device including: a microphone structured for receiving sound waves” in (Col 6 lines 15-25), “the sound waves being representative of (i) an audio signal (and (ii) hidden data embedded in the audio signal” in (Col 6 lines 54-67), “the microphone converting the received sound waves into an electrical output signal; a processor electrically coupled to the microphone and configured for receiving the electrical output signal in order to extract the hidden data and provide information representative of the hidden data as an output thereof” (Col 6 lines 15-17, lines 54-67); “a user interface electrically coupled to the processor and configured for (i) receiving a first input from the user and (ii) activating the processor to selectively initiate extraction of the hidden data in accordance with the first user input, the processor producing as an output the information represented by the hidden data” in (Col 6 lines 54-67, Col 7 lines 25-34, lines 55-67, and Col 8 lines 44-60); “a user presentation mechanism configured for

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presenting the information represented by the hidden data to the user” in (Col 8 lines 44-60, and Col 6 lines 40-67); “wherein the user interface is further configured to (i) receive a second input from the user and (ii) activate the processor to output data representative of the second input, the second input being indicative of preferred user portions of the information represented by the hidden data presented to the user” in (Col 7 lines 34-43, and Col 6 lines 43-54); “an output mechanism electrically coupled to the processor and configured for receiving the output therefrom and transmitting a signal corresponding to the received output; and a base station configured to (i) receive and process the signal corresponding to the output from the portable communication device” in (Col 8 line 44 to Col 9 line 4), “(ii) extract the hidden data from the processed signal, the hidden data including identifier information and linking information” in (Col 6 lines 29-35), and “(iii) establish a communication link to a destination represented by the linking information, the hidden data including the linking information, and (iii) establish a communication link to a destination represented by the linking information” in (Col 7 lines 55-67).

9. As per claim 10, August discloses a method of communicating using a system including a processor, a user interface, and a user presentation mechanism, the method comprising: receiving sound waves using a microphone (Col 6 lines 15-17, line 43, Col 7 lines 28-30, and Col 8 lines 44-60), the sound waves being representative of (i) an audio signal and (ii) hidden data embedded in the audio signal (Col 7 lines 20-33), and converting the received sound waves into an electrical signal (Col 6 lines 1-18); selectively extracting the hidden data from the electrical signal in accordance with a first input from a user and producing information representative of

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the hidden data (Col 7 lines 19-33); and presenting the information representative of the hidden data to the user (Col 6 lines 54-60).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over August.

12. As per claims 11 and 13, August discloses “A method of sharing broadcast revenue among a plurality of entities, each entity of the plurality receiving revenue shares based upon a broadcast of data signals, the data signals being representative of audio content and including hidden information embedded therein” in (Col 3 lines 28-31), “the method comprising: broadcasting the data signals having the hidden information, the hidden information including at least an identity of each of the entities; receiving the broadcast data signals in a portable communication device” in (Col 3 lines 28-38); “separating the hidden information from the information content in the received broadcast data signals and presenting the hidden information to a user to facilitate a user selection, the user selection being associated with the hidden information” in (Col 4 lines 45-57, and Col 5 lines 35-40); “wirelessly transmitting the user selection to a revenue determination center, determining a revenue share amount for each of the plurality of entities based upon the broadcast data signals and the user selection,” in (Col 6 lines

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15-18, lines 36-42, Col 7 lines 19-33, lines 55-67, Col 11 lines 20-31). However, August is silent on how the allocating the determined revenue share amount to each of the plurality of entities. Nevertheless, August does disclose of method of collecting payment from the user input transaction (Col 11 lines 20-31). Therefore, it would have been obvious at the time of the invention was made for one having ordinary skill in the art to realize that the method of determining the revenue share amount to each of the plurality of entities can be easily calculated from the collected billing information.

13. As per claim 12, August discloses “the method of sharing broadcast revenue according to claim 11, wherein the separating includes converting the received broadcast data signals into electrical signals and extracting the hidden information from the electrical signals” in (Col 5 lines 24-30, Col 6 lines 15-18, and lines 42-53).

### ***Response to Arguments***

14. Applicant’s argument, see Amendment, filed December 2nd, 2004, with respect to claims 1-13 have been fully considered and are persuasive. The Detail action of 08/02/2004 has been withdrawn.

### **Conclusion**


15. Any inquiry concerning this communication from the examiner should be directed to Linh Son whose telephone number is (571)-271-3856.



16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Kim Y. Vu can be reached at (571)-272-3859. The fax numbers for this group are (703)-872-9306 (official fax). Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (571)-272-2100.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval IPAIR.I system. Status information for published applications may be obtained from either Private PMR or Public PMR. Status information for unpublished applications is available through Private PMR only. For more information about the PAIR system, see <http://pzd-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Linh LD Son**  
**Patent Examiner**

  
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